United Nations A/67/383

General Assembly

Distr.: General
25 September 2012

Original: English

Sixty-seventh session
Agenda item 69 (c)
Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in Myanmar*

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, in accordance with Assembly resolution 66/230.

* The present report was submitted late to enable the most recent country visit of the Special Rapporteur, which took place from 30 July to 4 August, to be reflected in the analysis of the current human rights situation in Myanmar.

12-52048 (E) 091012

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Report of the Special Rapporteur on the situation of human rights in Myanmar

Summary

The reporting period has again seen dramatic and accelerated changes in Myanmar, which can further improve the country's human rights situation, but also the persistence of long-standing concerns that continue to pose risks to the reform process.

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I. Introduction

1. The mandate of the Special Rapporteur on the situation of human rights in Myanmar was established by the Commission on Human Rights in its resolution 1992/58 and extended most recently by the Human Rights Council in its resolution 19/21. The present report, submitted pursuant to Council resolution 19/21 and General Assembly resolution 66/230, covers human rights developments in Myanmar since the previous report of the Special Rapporteur to the Council in March 2012 (A/HRC/19/67) and to the Assembly in September 2011 (A/66/365).

2. From 30 July to 4 August 2012, the Special Rapporteur conducted his sixth mission to Myanmar and met the Minister for Foreign Affairs, the Minister for Home Affairs, the Minister for Border Affairs, the Minister of Social Welfare, Relief and Resettlement (who also holds the position of Minister of Labour), the Minister of Immigration and Population, the deputy ministers of health and education, the Attorney General, the Chief Justice and other justices of the Supreme Court and members of several parliamentary committees. In addition, he met Aung San Suu Kyi, members of the Myanmar National Human Rights Commission and civil society, three prisoners of conscience held in Insein prison, including a United Nations staff member, one prisoner of conscience in Insein hospital who was subsequently released and members of the United Nations country team and the diplomatic community.

3. He visited Rakhine State, where he met state and local authorities and members of the Muslim community. He visited burned villages and observed the construction of new shelters. He and his team also visited camps for displaced persons for both Buddhist and Muslim communities in Sittwe and Maungdaw. In Buthidaung prison, he interviewed five United Nations staff members detained in connection with the events. He expresses thanks to the Government of Myanmar for its cooperation and for the access granted to Rakhine State.

4. He also continued to engage with the Government through its ambassadors in Geneva and New York, and sent several communications during the reporting period. Those included a joint urgent appeal dated 30 December 2011 with the Special Rapporteur on violence against women, its causes and consequences and the Chair-Rapporteur of the Working Group on Arbitrary Detention regarding the alleged abduction and rape of Sumlut Roi Ja by military personnel in Kachin State; a joint allegation letter dated 23 February 2012 with the special rapporteurs on the independence of judges and lawyers, on the promotion and protection of the right to freedom of opinion and expression and on the rights to freedom of peaceful assembly and of association regarding the conviction and subsequent disbarment of 32 lawyers in proceedings in violation of fair trial safeguards; a joint urgent appeal dated 7 May 2012 with the special rapporteurs on the independence of judges and lawyers and on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health regarding the alleged violation of due process safeguards in the trial of Phyo Wai Aung and the alleged denial of access to appropriate specialized medical care; and an allegation letter dated 28 June 2012 on the alleged arrest and incommunicado detention of five United Nations staff members.

5. He also visited Thailand from 6 to 8 August 2012 and met representatives of civil society, United Nations regional offices in Bangkok, the United Nations

country team, the diplomatic community and the Ministry of Foreign Affairs. He expresses thanks to the Government for its cooperation. While in Thailand, he discussed, by telephone, the situation in Rakhine State with the Special Adviser to the Secretary-General on Myanmar, Vijay Nambiar, the Secretary-General of the Association of Southeast Asian Nations (ASEAN), Surin Pitsuwan, and the representative of Thailand to the ASEAN Intergovernmental Commission on Human Rights, Sriprapha Petcharamesree.

6. The Special Rapporteur expresses thanks to the Office of the United Nations High Commissioner for Human Rights (OHCHR), in particular in Geneva, Bangkok and New York, for assisting him in discharging his mandate.

II. Human rights situation

7. In the context of continuing reforms, the Special Rapporteur is encouraged to see improvements in the human rights situation in Myanmar and the increasing engagement of civil society, political parties and other stakeholders in the reform process. He found greater openness in discussing human rights issues and more critical debate on the direction, pace and scope of reforms. In addition, national institutions with important roles in furthering democratic transition and respect for human rights have continued to develop. Nevertheless, Myanmar continues to grapple with serious human rights challenges that, as the events in Rakhine State demonstrate, must be addressed for democratic transition and national reconciliation to make progress.

A. Prisoners of conscience

8. Since the formation of the new Government, six amnesties have been granted and more than 730 prisoners of conscience released. The most recent amnesty, announced by the President of Myanmar, Thein Sein, on 17 September 2012, resulted in the release of more than 80 prisoners of conscience and was granted in accordance with section 204 (a) of the Constitution and section 401 (1) of the Code of Criminal Procedure.

9. The Special Rapporteur publicly welcomed the releases, while noting that section 401 (1) of the Code of Criminal Procedure attaches conditions, such as the imposition of the remaining sentence if a crime is committed in the future. Similar conditions were attached to some of the releases under the amnesties of 2 January and 3 July 2012. He reiterates that the release of prisoners of conscience must be without any conditions.

10. Adequate medical and psychosocial services should be provided to those released, in particular those who suffered ill-treatment or were subject to prolonged periods of solitary confinement. Rehabilitation support should also be provided, given that many former prisoners reportedly face difficulties in finding employment or in continuing their education. Furthermore, many former prisoners reportedly continue to be denied passports and cannot travel abroad, while those who are medical and legal professionals have had their licences revoked. The Government should ensure that the rights and freedoms of those released are respected and any restrictions removed.

11. During his mission, the Special Rapporteur was granted access to and was able to meet privately all the prisoners whom he requested to see. He met three prisoners of conscience in Insein prison and one in Insein hospital. On 3 July 2012, he was informed that Phyo Wai Aung, whom he had met previously, in August 2011 and February 2012, had been granted amnesty and released. He commended the President and the Government on taking that positive step. Phyo Wai Aung is now appealing against his conviction for involvement in bombings that occurred in April 2010. The Special Rapporteur notes allegations of torture during Phyo Wai Aung's interrogation following his arrest and alleged violations of due process rights during his trial.

12. Generally, the Special Rapporteur is concerned that prisoners of conscience remain in detention throughout Myanmar, including the Director of the Human Rights Defenders and Promoters Organization, Myint Aye. He reiterates that the Government should release all remaining prisoners of conscience without conditions or delay. This is central to national reconciliation and Myanmar's democratic transition.

13. There are continuing discrepancies in the numbers of remaining prisoners of conscience from different sources, such as the Government, the National League for Democracy and the Former Political Prisoners Group. Accordingly, a comprehensive and thorough investigation, based on broad and public consultations with all relevant stakeholders, such as political and civil society organizations and released prisoners themselves, is needed to clarify records and bring together information on remaining numbers. The Government should consider this issue urgently, including with international assistance as necessary.

B. Conditions of detention and treatment of prisoners

14. The Special Rapporteur has received, and continues to receive, consistent allegations of torture and ill-treatment of detainees, in particular during interrogation by Special Branch officials. The issue requires serious attention. Immediate and effective preventive measures should be taken and prompt, impartial and effective investigations into all allegations ensured. Any statement made as a result of torture should not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made. The Special Rapporteur also recommends that the Government become party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.

15. During his mission, he raised the case of Lahtaw Brang Shawng, a Kachin villager arrested on 17 June 2012 for alleged links to the Kachin Independence Army and involvement in a bomb plot. Allegedly tortured while being interrogated by military officials and forced to confess, he has reportedly been denied appropriate medical treatment for the injuries that he sustained. His trial was under way at the time of writing.

16. The Special Rapporteur was informed that members of the Myanmar National Human Rights Commission interviewed Lahtaw Brang Shawng during their mission to Kachin State from 23 to 27 July 2012 and found evidence of torture. He welcomes the Commission's statement of 15 August, in which it said that torture during the interrogation constituted a violation of human rights and must be

avoided, and expresses the hope that appropriate action will be taken and the perpetrators brought to justice.

17. Monitoring and inspection of detention facilities, in particular regular and unannounced visits, can prove effective in addressing concerns relating to conditions of detention and in preventing torture and ill-treatment. While the Myanmar National Human Rights Commission can play an important role in this regard, the Special Rapporteur has previously noted concerns, including the requirement of presidential authorization to undertake prison visits and the fact that interviews with prisoners have been conducted in the presence of prison officials. Given the limited mechanisms for external oversight of the prison system at present, the Government should allow the International Committee of the Red Cross and national monitoring groups full access to prisons.

18. He notes that the Ministry of Home Affairs is preparing a revised version of the Prisons Act and welcomes its consultations with the International Labour Organization (ILO), OHCHR and the United Nations Office on Drugs and Crime, among others. Based on his previous recommendations, he expresses the hope that provisions on solitary confinement, transfers to remote prisons, medical assistance and non-judicial punishment will comply with international standards. More broadly, he hopes that the revised Act will comply with such standards as the Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). Once the revised Act has been passed, further legislative reforms are needed, including to the Penal Code, the Code of Criminal Procedure and relevant police regulations.

C. Other issues relating to civil and political rights

19. On 5 July, the implementing rules and regulations were enacted for the Peaceful Demonstration and Gathering Law, which allows peaceful protests subject to conditions. The Special Rapporteur has previously highlighted how such conditions may result in disproportionate restrictions. For example, the legislation prohibits protests at factories, hospitals and Government offices and imposes a penalty of one year's imprisonment for protests staged without permission. He believes that the grounds for denying an application are overly broad and may result in arbitrary decisions and infringe the rights to freedom of assembly and expression.

20. Protests have been held under the law but various applications for demonstrations have reportedly been rejected, including those submitted by members of the National League for Democracy, who wished to commemorate Martyrs' Day, and by members of the All Burma Federation of Student Unions, who sought to commemorate the fiftieth anniversary of the events of 7 July 1962 at Yangon University (when students were shot and the student union building bombed by the military). It is reported that more than 20 members of the Federation were detained by Special Branch personnel on 6 July in connection with the planned commemoration, although later released.

21. Similar concerns over pre-notice requirements and prohibitions on places of demonstration exist with regard to the Labour Organization Law, which entered into force on 9 March 2012.

22. The Special Rapporteur has previously reported on the easing of restrictions on the media and the Internet. The Press Scrutiny and Registration Division announced on 20 August 2012 that journals and publications covering news, religion, education and public affairs no longer needed to submit articles for approval before publication. That copies still need to be submitted after publication, however, raises concerns that censorship and the prosecution of journalists will continue.

23. Other restrictions also remain: according to a 16-point guideline for the media issued by the Division as part of the same 20 August announcement, articles critical of the State or contrary to the three national causes (non-disintegration of the Union, non-disintegration of national solidarity and perpetuation of national sovereignty) are prohibited. The Division suspended a magazine for publishing photos relating to the events in Rakhine State on 11 June 2012 and two news journals for not having submitted articles before publication on 31 July. There is speculation that the suspensions were linked to articles published on a possible Cabinet reshuffle. On 1 August, journalists and media professionals formed a committee for the freedom of the press and called for the immediate lifting of the suspensions and an end to censorship. Protests were held on subsequent days. On 6 August, it was announced that the two journals could resume publishing on 18 August, although no details were provided.

24. On 1 March 2012, the President referred to the formation of a press council so that the media could ensure liberty and accountability with a check and balance system in accordance with democratic practices. On 9 August, journalists and media associations criticized the composition of the Council and some of its functions, such as supervising the work of the press and reviewing foreign publications. Following discussions between the Minister of Information and media associations, a new interim press council formed on 17 September has reportedly addressed the concerns expressed.

25. The Special Rapporteur is following developments regarding the drafting of a new media law, which would reportedly establish new publishing guidelines and abolish censorship. While there have been consultations, including with the United Nations Educational, Scientific and Cultural Organization, some media professionals are concerned that these have not been inclusive, meaningful or sufficient.

26. In addition, until new laws are in place, restrictions remain under existing legislation, such as the Electronic Transactions Law (2004), the Motion Picture Law (1996), the Computer Science Development Law (1996), the Television and Video Law (1985), the Printers and Publishers Registration Act (1962) and the Wireless Telegraphy Act (1933). Efforts to review and reform laws previously identified as not in full compliance with international human rights standards should therefore be accelerated and should include a review of the vague and overly broad language used, for example concerning "peace and security" or "harm to the State", which invariably leads to unnecessary and disproportionate restrictions on freedom of expression.

D. Civil society

27. The Special Rapporteur believes that a flourishing civil society is vital to a democratic society that promotes and protects human rights. He urges the

Government to undertake legislative reforms to free up the potential of civil society and to institutionalize a more open and tolerant environment.

28. He has previously highlighted concerns regarding the Unlawful Associations Act (1908), which has been systematically applied to convict prisoners of conscience, and called for its review and reform. Under this law, an association that interferes or has for its object interference with the administration of the law and with the maintenance of law and order, or that constitutes a danger to the public peace, may be deemed illegal. Under section 17 (1) of the law, anyone who is a member of an association declared to be unlawful or who assists the operations of any such association can be imprisoned for between two and three years.

29. Under the Law Relating to Forming of Organizations (1988) and its by-laws and regulations, an application to the Ministry of Home Affairs (formerly the Ministry of Home and Religious Affairs) is required to form an organization. Permission may be denied on broad and vague grounds. For example, section 5 of the legislation prohibits the formation of organizations that "attempt, instigate, incite, abet or commit acts that may in any way disrupt law and order, peace and tranquillity, or safe and secure communications". There are also concerns regarding the inconsistent and cumbersome registration process, which requires recommendations from relevant ministries. The fee, reportedly totalling 500,000 kyat, is prohibitive for many organizations. Organizations are also reportedly prohibited from including as members individuals from the clergy and political parties and former prisoners of conscience.

30. On 16 August 2012, the parliament agreed to review existing registration legislation and to draft a new law specifically for non-governmental organizations. The Special Rapporteur hopes that this will result in a clear and transparent registration process. Furthermore, the status of organizations not formally registered, that were banned by previous Governments and/or declared unlawful under the Unlawful Associations Act should be reviewed. For example, members of student groups such as Generation Wave and the All Burma Federation of Student Unions reportedly continue to face harassment and arrest. Government authorities allegedly warned leaders of the All Burma Federation in June 2012 to register the Federation as an official association or risk imprisonment.

E. Economic, social and cultural rights

31. The Special Rapporteur notes the adoption of the National Rural Development and Poverty Reduction Plan (2011-2015), intended to reduce the poverty rate from 26 to 16 per cent by 2015; economic reforms intended to lay the foundations for a market economy, promote growth and encourage foreign investment; and the establishment of a national economic and social advisory council on 13 June 2012. A second wave of reforms focused on development and public welfare was announced by the President on 19 June and bills on anti-corruption, social security and a new minimum wage are before the parliament.

32. The Special Rapporteur welcomes the adoption on 4 July of a joint strategy with ILO for the elimination of all forms of forced labour by 2015. On 1 May, the President committed himself to "eliminating all forms of forced labour once and for all [with a view to] enhancing the eternal principles of justice, liberty and equality in the Union". The amended Ward or Village Tract Administration Act, adopted by

the parliament on 23 March, criminalizes forced labour and brings its definition into line with the Convention concerning Forced or Compulsory Labour (Convention No. 29). On 21 March, the Commander-in-Chief of the Defence Services issued instructions in which he stated that forced labour would not be tolerated and would be punished pursuant to article 374 of the Penal Code.

33. In April 2012, the European Union announced the suspension of some sanctions against Myanmar, following similar announcements by the Governments of Australia and Norway in January. In July, the Government of the United States of America eased some of its financial and investment sanctions. International organizations are also re-engaging or broadening their engagement with Myanmar. ILO lifted restrictions on Myanmar's full participation in its activities, the Executive Board of the United Nations Development Programme is taking steps to normalize its programme and the Asian Development Bank, the World Bank and the International Monetary Fund are now providing assistance.

34. The Special Rapporteur notes progress in developing an agenda in the areas of health and education. In March 2012, the parliament approved a fourfold increase in health spending and a twofold increase in education spending for 2012-2013, although this is still only 2.93 per cent and 4.91 per cent, respectively, of the overall Government budget. Myanmar has committed itself to advancing the Global Strategy for Women's and Children's Health and to ensuring that the majority of its population has access to and is covered by health-care services by 2015. During his mission, the Special Rapporteur was informed about the adoption of a national child health strategic plan for the period 2010-2014 and a national reproductive health strategic plan for the period 2009-2013, in addition to measures to improve health services in rural and border areas. He welcomes the priority accorded to the health sector and hopes for continued attention to be paid to the still-significant disparities between regions in access to, and quality of, health services, which particularly affect ethnic minorities and communities in border areas.

35. He was informed about a new private school registration law and measures to conduct a comprehensive review of the education sector in cooperation with organizations such as the United Nations Children's Fund. Efforts to provide free primary education, upgrade the quality of education, increase access (including in border areas) and improve the social status of teachers were also highlighted. Such efforts are in line with his previous recommendations (see A/HRC/16/59) and the concluding observations of the Committee on the Rights of the Child (see CRC/C/MMR/CO/3-4).

36. The Special Rapporteur continues to receive reports of violations of land and housing rights, in particular regarding the impact of infrastructure projects, natural resource exploitation and associated land confiscations and grabbing. While there are no clear data, he has been informed that land confiscations have increased since 2010. Allegations of land confiscations and grabbing have resulted in demonstrations by farmers and civil society activists. The Myanmar National Human Rights Commission has acknowledged that many of the complaints that it receives relate to land disputes and land confiscations.

37. Farmers often have no documentation with which to prove land ownership. Those who resist eviction face harassment or are arrested. In a case in July 2012, seven farmers were reportedly arrested in Pegu division by army personnel who had previously confiscated their land. In another case, in April, three villagers in Lewe

township were sentenced to six months' imprisonment for resisting eviction. Six other villagers had previously been sentenced to three months' imprisonment and hard labour. Individuals protesting against land confiscations have also faced harassment or legal action. In July, five farmers leading protests against land confiscation in Pegu division were reportedly detained by the police and forced to sign a statement in which they stated that they would not participate in similar activities in the future. In addition, a construction firm filed defamation charges against a politician who had supported the farmers.

38. Article 37 (a) of the Constitution provides that the State is the ultimate owner of all lands and all natural resources above and below the ground, above and beneath the water and in the atmosphere. On this basis, section 29 of the Farmland Law approved by the parliament on 30 March 2012 allows the State to take over any land for a project in the national interest. Under section 15, land takeovers and the resolution of land disputes are the responsibility of a council comprising the Minister and Deputy Minister of Agriculture and Irrigation, among others. Land confiscations were discussed by the parliament in July and a new parliamentary committee will reportedly be established to investigate the issue. The Chair of the Reform and Development Monitoring Committee, a parliamentary committee, recently stated that the Farmland Law would be amended as a result of recent land confiscation complaints.

39. Land confiscations and the consequent forced eviction of individuals and communities often lead to poverty, displacement and ruined livelihoods. Land confiscations are linked to the absence of legally secure tenure, which constitutes an essential element of the right to adequate housing. Given the expected wave of privatizations and the increase in foreign investment, along with accelerated economic development, there is likely to be an increase in land confiscations, development-induced displacement and other violations of economic, social and cultural rights. Myanmar has an obligation to refrain from and protect against forced evictions from homes and land. While it is not a State party to the international human rights covenants, the right to adequate housing is recognized in the Universal Declaration of Human Rights and other instruments to which Myanmar is a State party: the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

40. The Basic Principles and Guidelines on Development-based Evictions and Displacement, developed by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, provide a framework for the development of policies, legislation and other measures to ensure that forced evictions do not take place and for effective remedies should prevention fail. Accordingly, holistic impact assessments should be conducted before any project that could result in evictions and displacement. Genuine consultations should be held with affected individuals and communities and sufficient information should be provided (with adequate and reasonable notice). The competent authorities should ensure that evicted individuals and communities have safe and secure access to food, water and sanitation, basic shelter, essential medical services, alternative livelihood sources and education for children. Measures aimed at conferring legal security of tenure upon persons, households and communities lacking such protection, including those without formal land titles, should also be taken.

41. In accordance with victims' right to restitution, the right to return to former homes and lands, with any damage repaired or destroyed property rebuilt, should be ensured. Restitution rights are not limited only to people with land titles, but also include renters and other legal occupiers of land. If a return to the former home or land is not possible, displaced persons have a right to compensation for their loss and/or a new house and/or land. Appropriate rules, policies and mechanisms should be established to ensure an independent and impartial process of assessing and enforcing housing, land and property restitution claims.

42. Private companies also have a responsibility not to be complicit in human rights abuses. The Guiding Principles on Business and Human Rights state that business enterprises should respect human rights and require that they avoid causing or contributing to adverse human rights impacts through their own activities. A legislative framework ensuring prevention, protection against and reparation of the adverse impacts of activities by companies, in particular in the extractive and energy sectors, should be established as a matter of priority, in line with international standards on corporate social and environmental responsibility. The Government should organize a public conference involving companies, the United Nations, civil society and other stakeholders to promote discussion and dialogue on these issues.

43. As stated by the President on 1 March 2012, any foreign investment should help in the country's sustainable development and should not be exploitative in nature. The Government should therefore firmly embed a human rights-based approach to economic and social development in order to ensure that the principles of participation, non-discrimination, transparency, accountability and the rule of law guide this process. The Special Rapporteur welcomes the launch in Myanmar, on 1 May 2012, of the Global Compact, which can bring national and multinational companies together and integrate responsible practices into the private sector in Myanmar. He is also encouraged that Myanmar is preparing to become a signatory to the Extractive Industries Transparency Initiative, which can assist in tracking and recording revenues.

III. Situation of ethnic minorities

44. The Special Rapporteur is particularly concerned at continuing serious human rights violations in conflict-affected ethnic border areas, which include attacks against civilian populations, extrajudicial killings, sexual violence, arbitrary arrest and detention, internal displacement, land confiscations, the recruitment of child soldiers, forced labour and portering, and the use of landmines. He reiterates that the Government and all armed groups should ensure the protection of civilians during armed conflict and that international human rights and humanitarian law must be respected. The international community should remain concerned and closely follow developments. He welcomes signals that the Government may become a State party to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction and hopes for enhanced cooperation with international organizations to develop a comprehensive plan to end the use of landmines, ensure their systematic removal and rehabilitate victims.

45. In his statement to the parliament on 1 March 2012, the President outlined the three stages of the road map to achieving peace: the signing of a ceasefire agreement to end hostilities; engagement in economic development, the elimination of drugs

and assimilation into the State, military and political framework; and working through the parliament to meet the needs of the Government, what he termed "national races" and citizens. Initial ceasefire agreements have been reached with 10 ethnic armed groups and continuing dialogue with some groups has resulted in additional agreements, including a 14-point agreement with the Karen National Union in April 2012 and a preliminary five-point agreement with the New Mon State Party in February and April.

46. In May 2012, a new peacemaking central committee was established under the leadership of the President to streamline the process of negotiations. A work committee was also established to consolidate ceasefire agreements into peace agreements and to attend to immediate post-ceasefire needs. A peace donor support group, supported by various donors and partners, including the United Nations, was launched on 12 June and a peace centre was established for peacebuilding activities. Myanmar made a formal request on 15 May for support from the Peacebuilding Fund for projects in several States. In June, the United Nations Mine Action Service conducted a mission to Myanmar and is providing technical, coordination and advisory support on mine action issues.

47. The Special Rapporteur will closely monitor the political negotiations and, in particular, how they address issues such as the disarmament, rehabilitation and reintegration of former combatants; the verification and release of children recruited into armed groups; the provision of assistance and support to those affected by the conflict, including landmine victims; demining; and the continuing allegations of violations committed by parties to the conflict. In all these areas, the Government should continue to seek international assistance, including from OHCHR.

48. There is an increasing focus on the possible return and reintegration of the some 426,000 refugees and asylum seekers in neighbouring countries and on the conditions conducive to their voluntary, safe and sustainable return. The Office of the United Nations High Commissioner for Refugees has drafted a framework for voluntary return that sets out principles for return based on consultation with all stakeholders. During his visit to Thailand, however, the Special Rapporteur heard concerns that affected individuals and communities had not been consulted and that rumours and misinformation had generated widespread uncertainty in the camps. Civil society organizations also indicated a lack of transparency and consultation on the peace negotiations. He believes that these views are important and hopes that any returns take place in consultation with affected individuals and communities, with the necessary measures and safeguards in place for people to return voluntarily in safety and with dignity, and to ensure their reintegration.

49. The progress with ceasefire agreements notwithstanding, clashes continue in Kachin, Kayah, Kayin and Shan States. In Kachin State, where armed clashes with the Kachin Independence Army erupted in June 2011, talks between the Kachin Independence Organization and the Government have stalled. In his statement to the parliament on 1 March 2012, the President reiterated a previous call for the military to cease offensive operations. Those calls have gone unheeded. The Special Rapporteur continues to receive allegations of serious human rights violations committed in relation to the conflict, including attacks against civilian populations, extrajudicial killings, sexual violence, internal displacement and torture. He has also received allegations of the use of landmines, the recruitment of child soldiers and

forced labour and portering committed by all parties to the conflict. He reiterates that it is vital for these allegations to be addressed as a matter of priority.

50. He welcomes the joint action plan agreed to in June 2012 by the United Nations and the Government of Myanmar, which is aimed at ending the recruitment and use of child soldiers. He highlights the need for the United Nations and other independent humanitarian actors to be provided with access to military sites and conflict areas in order to monitor the implementation of the plan.

51. He is concerned by reports of arrests of ethnic Kachins suspected by the Government to have links with the Kachin Independence Organization or the Kachin Independence Army. Many arrests have been made under the Unlawful Associations Act. In addition to the case of Lahtaw Brang Shawng, he was also informed about the case of Galau Bawm Yaw, who was arrested, along with 26 other men, on 1 July 2012 for having suspected links to the Kachin Independence Army. His body was found near a military base in northern Shan State on 22 July, reportedly showing signs of torture. Attention is also drawn to the case of Sumlut Roi Ja, who was allegedly abducted and gang-raped by military personnel in Kachin State in October 2011. On 26 January 2012, the victim's husband submitted a writ of habeas corpus under the Constitution to the Supreme Court, which was rejected on the grounds that there was no evidence that the army had taken her into its custody before her disappearance. The Special Rapporteur stresses the importance of developing the usage of habeas corpus as a fundamental judicial guarantee for the protection of human rights.

52. From 23 to 27 July 2012, members of the Myanmar National Human Rights Commission undertook a second mission to Kachin State, following their first mission in December 2011. The Commission found violations of human rights of villagers by armed groups and stated that torture during interrogation constituted a violation of human rights and must be avoided. The Special Rapporteur notes that the Commission is beginning to tackle allegations of human rights violations in Kachin State and hopes that it will take a more proactive role in this regard.

53. An estimated 60,000 people remain displaced to date, of whom some 35,000 are in areas controlled by the Kachin Independence Organization or the Kachin Independence Army, where access remains difficult. While the Government, the United Nations and community-based and faith-based organizations continue to provide humanitarian assistance, the Special Rapporteur was informed that the humanitarian needs in these camps are significant, in particular in the areas controlled by the Kachin Independence Organization or the Kachin Independence Army. As a result of continuous negotiations with the Government and the two groups, United Nations convoys were able to deliver assistance to displaced persons in December 2011 and March and June 2012, including in areas not controlled by the Government.

54. The Special Rapporteur again emphasizes that the rights and needs of those displaced and affected by the conflict must be addressed as a matter of priority. The United Nations and its partners should have regular, independent and predictable access to all those in need of humanitarian assistance, regardless of their location. All parties must allow humanitarian relief to reach civilian populations.

55. Any durable political solution must address the root causes of the conflict and the particular concerns of ethnic minority groups. In this respect, the Special

Rapporteur has previously highlighted the discrimination faced by ethnic minority groups, including policies preventing the teaching of minority languages in schools, restrictions on freedom of religion or belief and economic deprivation. He continues to receive reports of discrimination against ethnic minority groups, including restrictions on the building of Christian places of worship in Chin State, restrictions on religious worship and coerced conversions to Buddhism at the Government's border areas national races youth development training schools, where Buddhist monks were reported to be working together with the Ministry of Religious Affairs. He renews his call for ethnic minorities to be granted the fundamental rights enshrined in, among others, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

IV. Situation in Rakhine State

56. During his mission, the Special Rapporteur visited Rakhine State, where violence between communities broke out in June 2012 and continued in August. The apparent catalyst for the violence was the rape and murder of a Rakhine woman, allegedly by three Muslim men on 28 May in Ramri. Subsequently, on 3 June, 10 Muslim men from Yangon were killed, allegedly by a group of Rakhine villagers who had stopped their bus in the town of Toungop. Three Muslim men were found guilty of the rape and killing of the Rakhine woman and sentenced to death by the Kyaukphyu District Court on 18 June. Concerns were expressed about the conduct of the trial and calls made for an inquiry into the suicide of one of the suspects in custody. The Special Rapporteur is unaware of any convictions in relation to the killing of the 10 Muslim men and calls for investigations into those incidents to be carried out to ensure that those responsible are brought to justice and that the due process rights of those accused are fully respected.

57. Following the two incidents, violence between communities spread throughout Rakhine State and curfews were imposed in the affected areas. On 6 June, the Government established a 16-member investigative committee chaired by the Deputy Minister for Home Affairs tasked to expose the truth and take legal action on what were termed the "organized lawless and anarchic acts" that occurred. On 10 June, the President declared a state of emergency in Rakhine State under section 412 (a) of the Constitution and obtained the military's assistance in restoring law and order under section 413 (a).

58. Following further violence in August, the Government stated that 88 people had been killed and 120 injured, with more than 5,300 houses destroyed. As at 30 July, 858 individuals remained in custody. The Special Rapporteur has, however, received widely divergent information from various sources on the death toll and the numbers of people injured and arrested.

59. While concerns have been expressed regarding restrictions on access to Rakhine State for the international media and others, the Government has allowed visits by a United Nations team led by the Special Adviser to the Secretary-General on Myanmar, other United Nations representatives, diplomatic missions, the Minister for Foreign Affairs of Turkey and a delegation of the Organization of Islamic Cooperation.

60. On 31 July and 1 August, the Special Rapporteur visited Sittwe, Maungdaw and Buthidaung. According to Government figures at the time, around 70,000

displaced persons were accommodated in some 60 camps. He saw that entire villages had been razed and met people who had lost their homes and livelihoods and were living in temporary shelters. He expresses his deepest sympathy to those from all communities who have experienced such misery and suffering in the wake of the violence. He acknowledges the Government's efforts, working with United Nations entities and non-governmental organizations, to provide humanitarian assistance,[1] but is concerned, in particular in the large Rohingya camps, about shelter conditions and access to food, water, sanitation and health care for the displaced populations, in addition to the loss of livelihoods and access to education. He was troubled by the perception among some, including local government officials, that the provision of assistance by the United Nations and international non-governmental organizations was biased. This sentiment has hindered humanitarian access to some areas and resulted in protests against and the threatening, intimidation and harassment of staff. He urges the Government to ensure humanitarian access to all displaced populations and calls upon the Government, community leaders, United Nations agencies and international non-governmental organizations to work together to counter perceptions that humanitarian assistance is not being provided to all, irrespective of their religion, political or ethnic affiliation and in line with the humanitarian principles of neutrality and impartiality. He acknowledges the work of the United Nations over the years to support the people of Myanmar, emphasizing the responsibility of the Government to clearly communicate the role of the United Nations in the country, including through public information campaigns.

61. The current separation of Muslim and Buddhist communities following the violence should not be maintained in the long term. In rebuilding towns and villages, Government authorities should pay equal attention to rebuilding trust and respect between communities, while confronting deep-rooted prejudices and discriminatory attitudes based on ethnicity and religion. These have been made manifest in the anti-Rohingya discourse and in the inaccurate and inflammatory images of the violence in the media, including social media. A policy of integration, rather than separation and segregation, should be developed at the local and national levels as a priority.

62. While acknowledging that firm intervention was required to restore law and order, the Special Rapporteur is concerned about the allegations that he received of serious human rights violations, including killings, arbitrary arrest and detention, the denial of due process guarantees and the use of torture in places of detention. While the Government has denied allegations of abuse and excessive use of force by the authorities, these allegations are serious and should be given priority attention by the Government. Verifying the truth and ensuring justice and accountability is of fundamental importance to reconciliation in Rakhine State. Furthermore, if the facts are not established, exaggerations and distortions will fill the vacuum to further fuel distrust and tensions between communities. As part of this process, the Special Rapporteur encourages the Government to recognize the value of providing unfettered access to the media. At the same time, he emphasizes the importance of

[1] On 20 August, the Myanmar Red Cross Society signed a five-year memorandum of cooperation agreement with the Turkish Red Crescent Society and, on 8 September, a memorandum of understanding with the Indonesian Red Cross Society to provide assistance to the affected people in Rakhine State.

responsible and professional journalism that does not incite hatred or promulgate discriminatory views or misinformation.

63. The Special Rapporteur had previously called for an independent, impartial and credible investigation into the allegations of human rights violations in Rakhine State, a call also made by others, including the Special Adviser to the Secretary-General on Myanmar and the United Nations High Commissioner for Human Rights. He welcomes the establishment by the President on 17 August of a committee to investigate the violence, comprising a cross-section of public officials, ethnic and religious figures and members of civil society, but notes that no Rohingya representative has been included. Given its broad mandate, he hopes that the committee will investigate allegations of human rights violations as a step towards holding those responsible to account. He also encourages the Committee to seek support from the international community, including ASEAN, in fulfilling its mandate. Given that the situation between the two communities remains tense, he hopes that the appropriate measures are taken to ensure the protection of witnesses and prevention of reprisals against those providing information. The committee has three months to submit a report to the President, which the Special Rapporteur will study carefully and hopes will be made public.

64. The Special Rapporteur believes that addressing the underlying causes of the violence is essential to any investigation. In this connection, he remains particularly concerned at the endemic discrimination against the estimated 800,000 members of the Rohingya Muslim community in Rakhine State, including with regard to freedom of movement, education and employment. Controls are also placed on Rohingya marriages, with lengthy and expensive procedures to obtain the required permit, and with penalties of up to 10 years' imprisonment for those who marry without permits. Thousands of children remain unregistered. He has also previously received allegations that members of this community have been subject to extrajudicial killings, arbitrary arrest and detention and forced labour, and notes the widely held discriminatory views and attitudes against them. The Government should thus review and amend laws and policies that deny the Rohingya community its fundamental human rights.

65. Attention must also be paid as a matter of priority to resolving the legal status of members of the Rohingya community, many of whom are stateless. This should include a review and amendment of the Citizenship Act (1982), as necessary, in addition to a review of immigration and border control policies. He is encouraged by the President's recent statement to the media in which he said that it might be necessary to modify the Act, and that the Government would open schools for the Rohingya community, given that education was important for communities to live in harmony and respect human rights. It is clear that the statelessness of this community increases its vulnerability to human rights violations and marginalization.

66. He also calls upon neighbouring countries, including Bangladesh, to fulfil their obligations under international law by respecting and protecting the human rights of all people within their borders, regardless of whether they are recognized as citizens. Myanmar should maintain dialogue with neighbouring countries, bilaterally and multilaterally, to identify durable solutions, premised on human rights principles, to the issue of the statelessness of the Rohingya people. In view of the

regional dimension of this issue, ASEAN should play a more proactive role in helping to identify such solutions.

67. Lastly, the Special Rapporteur is concerned that 14 United Nations and international non-governmental organization staff members were arrested in connection with the violence in Rakhine State and that neither the United Nations nor the organizations concerned were granted access to them. There was until recently little clarity on the details of their arrest or on the charges against them. The issue of the United Nations staff members under detention was a particular focus of his mission. He visited one United Nations staff member in Insein prison and five in Buthidaung prison. Based on his interviews, he was concerned about their treatment during detention and about the denial of their due process rights. At the conclusion of his mission, he called for their immediate release and a review of their cases. He also called upon the authorities to guarantee that the people whom he met did not face reprisals and to ensure their protection and that of their families. He welcomes the release on 17 August of six of the detainees: two United Nations staff members and four international non-governmental organization staff members. He also welcomes the pardon granted by the President on 28 August to the three United Nations staff members sentenced to imprisonment on 24 August. He calls upon the authorities to release the individuals remaining in detention as a matter of priority. Furthermore, he expresses concern at the conditions and treatment of others who remain in detention in relation to the violence in Rakhine State and urges the authorities to provide independent monitoring bodies with access to their places of detention.

V. Democratic transition and establishing the rule of law

68. By-elections for 45 legislative seats were held on 1 April 2012 and contested by 17 political parties, including the National League for Democracy. The official results announced by the Union Election Commission on 2 and 3 April confirmed that the National League for Democracy had won 43 of the 44 seats that it had contested. Aung San Suu Kyi won a seat in the parliament. International observers were satisfied that the elections were, by and large, free and fair.

69. In August, the Commander-in-Chief of the Myanmar Navy, Nyan Tun, was appointed Vice-President, replacing Tin Aung Myint Oo, who had resigned in July citing ill health. The President also announced Cabinet reshuffles, with the appointment of several ministers and deputy ministers, including a female minister. Such reshuffles appear to be a positive step towards maintaining reforms. Late in August, the Government announced the removal of one third of the names from its 6,165-person blacklist, which included the two sons of Aung San Suu Kyi, the head of the Federation of Trade Unions — Burma, journalists and representatives of human rights organizations. A dispute with the parliament following the decision of the Constitutional Tribunal of 28 March, in which it stated that parliamentary bodies were not Union-level organizations in accordance with the Constitution, resulted in the resignation of all the judges of the Tribunal in September 2012.

70. The parliament held its third regular session from 26 January to 2 May and approved the 2012 Union Budget Law, the 2012-2013 National Planning Bill and the Settlement of Labour Dispute Bill, among others. It convened its fourth regular

session on 4 July. On 7 August, Aung San Suu Kyi was appointed to chair a new parliamentary committee on rule of law and tranquillity.

71. The Special Rapporteur welcomes the importance placed by the Government on the rule of law in Myanmar. Given the widespread use of the term, he sees value in highlighting the definition of the rule of law previously provided by the Secretary-General in his report on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616):

> A principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.

72. The Special Rapporteur is encouraged by continuing efforts to develop the rule of law by reviewing legislation and passing new laws. Nevertheless, although Myanmar has sought assistance with regard to some bills and has recently published bills in the media that are to be considered by the parliament, there remains no clear and comprehensive strategy for legislative reform, resulting in a somewhat ad hoc and uncoordinated process. Myanmar should consider lessons learned and good practices from countries that have experienced similar processes. Furthermore, the legislative reform process should allow for proper consideration by the parliament, and for systematic consultation and discussion with relevant stakeholders, including civil society. International assistance should continue to be provided, in particular to support the further development of parliamentary rules and procedures, and to fill capacity and resource gaps, including in the various committees established and in the parliamentary staff structure. He notes the low representation of women in the parliament (currently only 4.5 per cent) and calls for measures to be put in place immediately to fill this gap.

73. The Attorney General has described steps taken to review and reform the laws that the Special Rapporteur has previously identified as not in compliance with international human rights standards. While encouraged by these assurances, the Special Rapporteur regrets that these reforms have yet to be fully achieved, his previous recommendations notwithstanding. He therefore hopes to see conclusive results in the near future and calls for target dates for the conclusion of the review to be set.

74. An independent, impartial and effective judiciary is central to ensuring that the rule of law is upheld and that laws are applied to safeguard human rights. The Special Rapporteur has previously outlined concerns regarding the independence of the judiciary and made recommendations in this regard (see, for example, A/66/365 and A/HRC/19/67). In his meeting with the Chief Justice of the Supreme Court, he was encouraged by the willingness expressed to engage with international organizations on capacity development, for which he has repeatedly called. To develop an appropriate programme of support, the Government should work with relevant stakeholders and international organizations to assess the current state of the rule of law and access to justice in Myanmar. Any such programme should include human rights training for Supreme Court judges. Furthermore, he

encourages cooperation with international organizations, including OHCHR, to ensure the integration of human rights modules into the regular training programmes conducted by the Supreme Court for judges throughout the country. He also highlights that the appointment, retention and behaviour of judges should always be in conformity with the Basic Principles on the Independence of the Judiciary.

75. Lawyers are also key actors in ensuring that laws are applied in line with international human rights standards. During his mission, the Special Rapporteur was informed of measures being taken to reform the Bar Council Act and Legal Practitioners Act; he hopes that an independent and professional bar association is established to maintain professional standards and ensure that human rights law is an integral part of the profession.

76. The Special Rapporteur has previously highlighted concerns regarding the arbitrary revocation of licences of lawyers (see, for example, A/66/365 and A/HRC/19/67). He is following developments in relation to the conviction and subsequent disbarment of 32 lawyers and was recently informed of cases of the denial or confiscation of the passports of lawyers. While he is encouraged by reports that lawyers can now apply for the return of their licences provided that no cause exists to deny them on grounds of codes of conduct or discipline under the relevant laws and rules, he reiterates that the Government should review such practices and ensure that lawyers are able to practise freely.

77. He continues to closely follow developments regarding the Myanmar National Human Rights Commission, given its important role in ensuring the promotion and protection of human rights. He notes that the Commission has been drafting an enabling law following the decision by the parliament in March that its establishment by presidential decree was not consistent with the Constitution. OHCHR and international civil society organizations have been consulted and the law is expected to be adopted by the parliament before the end of 2012. He acknowledges the Commission's openness in seeking international assistance and encourages further consultation with civil society. He hopes that the enabling law will help to address continuing concerns over the Commission's independence, composition and mandate and bring it into compliance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles). He also welcomes the engagement with international organizations on capacity development. He notes that OHCHR will undertake a series of institution-building activities for the Commission and other stakeholders, including seminars on international human rights law and technical assistance regarding human rights treaty ratification, in follow-up to the universal periodic review process of Myanmar.

78. The Commission has reviewed some 2,000 individual complaints and made recommendations on its findings to the Office of the Council of Ministers. The Special Rapporteur encourages it to further develop its work on human rights protection. Furthermore, recommendations should be made public and public quarterly reports on their implementation issued. He also hopes that partnership with civil society will be enhanced and an institutionalized process of engagement and consultation established.

79. Lastly, he emphasizes that all persons, institutions and entities should be accountable to publicly promulgated laws, including the military. He also stresses

that civilian control of the military is fundamental to any democracy that upholds the rule of law.

VI. Truth, justice and accountability

80. Truth, justice and accountability measures are essential to ensuring that Myanmar's present and future do not repeat the pattern of past human rights violations. This is integral to the process of securing sustainable peace and national reconciliation premised on an acknowledgement of the fundamental human rights and dignity of all. There are many ways to ensure that justice is dispensed, accountability established and impunity averted. The primary responsibility, however, rests with the Government of Myanmar.

81. During his mission, the Special Rapporteur discussed the possibility of establishing a truth commission with various stakeholders, including ethnic groups, civil society, political parties and members of the parliament. The experience of more than 30 truth commissions around the world shows that such commissions can provide a means of understanding past violations and provide for victims and their families the right to know the truth about the circumstances in which violations occurred — a right affirmed by the human rights treaty bodies and by national and international tribunals. Truth commissions are not, however, substitutes for more formal judicial accountability for the most serious violations and should not be afforded powers of amnesty incompatible with international law.

82. There are no defined models and every truth commission is unique, responding to national needs and set in the cultural context. As a first step, there should be broad consultation with all relevant stakeholders, including victims of violations, to obtain their advice and views on the feasibility and desirability of such a measure, and subsequently on how it could be shaped. The parliament, as the only multiparty and multi-ethnic public institution, can be an appropriate body for this difficult but necessary task. The Myanmar National Human Rights Commission should also assume a role in taking this proposal forward. Lessons should be learned from countries that have experience in these processes, and assistance may be provided by the United Nations and the international community. The Government should also consider engaging with the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

83. The Special Rapporteur reiterates that tackling grievances from decades of human rights violations and acknowledging victims' suffering will prevent future violations and will further democratic transition and national reconciliation. Measures to ensure justice and accountability, and access to truth, must therefore remain part of Myanmar's reform agenda.

VII. Conclusions

84. The Special Rapporteur is encouraged by the continuing reforms in Myanmar and emphasizes that human rights should lie at the heart of the process, driving it forward and maintaining the focus on improving the lives of the people of Myanmar. Human rights considerations need to shape the process of economic growth, legislative reform and institutional change, while also guiding responses to current

situations, including in Rakhine and Kachin States. Furthermore, the legacy of the past must inform this process of reform. No prisoners of conscience should be left in jail. Myanmar must tackle its human rights challenges in order for democratic transition and national reconciliation to make progress. The international community should also ensure that human rights considerations remain at the forefront of its engagement with Myanmar during this period of transition.

VIII. Recommendations

85. **The Government should ratify the core human rights treaties and ensure follow-up to the recommendations made by human rights mechanisms.**

86. **All remaining prisoners of conscience should be released immediately and unconditionally. A comprehensive and thorough investigation, based on broad and public consultations with all stakeholders, is needed to clarify records and determine accurate numbers. A review mechanism comprising all relevant stakeholders may be established and lessons learned from other countries should be taken into account. The Government should consider this issue urgently and seek international assistance as necessary.**

87. **The rights and freedoms of released prisoners of conscience should be respected. Adequate medical and psychosocial services, in addition to rehabilitation support, should be provided.**

88. **Immediate and effective measures should be taken to prevent torture and ill-treatment and to investigate all allegations. The Government should ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, and allow the International Committee of the Red Cross and national monitoring groups full access to prisons.**

89. **The Government should also:**

(a) **Ensure respect for the freedoms of opinion and expression, assembly and association, and enhance cooperation with organizations, such as ILO, on training and other technical assistance to ensure that the implementation of the laws on labour organization and peaceful demonstration and gathering is consistent with international human rights standards;**

(b) **Enhance partnership with civil society and ensure the establishment of a favourable environment, including through the reform of relevant laws;**

(c) **Integrate a rights-based approach to economic and social development. In this regard, the Government should ensure the protection of land and housing rights through the development of appropriate laws and policies, including with regard to forced evictions; establish an independent and impartial process of assessing and enforcing housing, land and property restitution claims; confer legal security of tenure; and establish a regulatory framework for companies in line with international standards on corporate social and environmental responsibility.**

90. **The Government and all armed groups should ensure the protection of civilians in armed conflict and respect for international human rights and humanitarian law. The Government should ratify the Convention on the**

Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

91. **Continuing allegations of human rights violations in conflict-affected areas should be addressed. Furthermore, the United Nations and its partners must have regular, independent and predictable access to all those in need of humanitarian assistance, in both Government-controlled and non-Government-controlled areas.**

92. **The Government should continue to engage ethnic groups in serious dialogue to resolve long-standing and deep-rooted concerns and to forge durable political solutions.**

93. **The necessary measures should be put in place to ensure the voluntary return and reintegration of refugees and displaced persons, through adequate consultation with all concerned.**

94. **Regarding the situation in Rakhine State, the Government should:**

(a) **Ensure that all incidents of violence are dealt with in accordance with the rule of law, that those responsible are brought to justice and that the due process rights of those accused are fully respected;**

(b) **Ensure that allegations of human rights violations in connection with the violence between communities are addressed;**

(c) **Ensure that the appropriate measures are taken to protect witnesses to acts of violence and human rights violations;**

(d) **Provide the United Nations and international non-governmental organizations with unfettered and secure access to displaced populations in need of humanitarian assistance, and work with those organizations to counter perceptions that humanitarian assistance is not being provided in accordance with the principles of impartiality and neutrality;**

(e) **Confront deep-rooted prejudices and discriminatory attitudes based on ethnicity and religion, and develop a policy of integration and long-term reconciliation for displaced Buddhist and Muslim communities;**

(f) **Take measures to address the endemic discrimination against the Rohingya community and ensure respect for their human rights, which should include a review of the Citizenship Act (1982);**

(g) **Enhance dialogue with neighbouring countries to identify durable solutions, premised on human rights principles, to the statelessness of the Rohingya people;**

(h) **Release the remaining United Nations and international non-governmental organization staff still in detention.**

95. **To develop the rule of law within Myanmar, the Government should:**

(a) **Work with relevant stakeholders and international organizations to assess the current state of the rule of law and access to justice;**

(b) **Establish a comprehensive, coordinated strategy of legislative reform and identify priority legislation for urgent review; ensure proper consideration and discussion by the parliament and systematic consultation with relevant**

stakeholders; continue to seek assistance, including from United Nations entities, in the review and reform of legislation;

(c) Accelerate efforts to review and reform legislation and legal provisions that contravene international human rights standards with clear target dates for the conclusion of the review. The review should include the Act to Safeguard the State Against the Dangers of Those Desiring to Cause Subversive Acts (1975, known as the State Protection Act); the Emergency Provisions Act (1950); the Printers and Publishers Registration Act (1962); the Law Protecting the Peaceful and Systematic Transfer of State Responsibility and the Successful Performance of the Functions of the National Convention against Disturbance and Oppositions (1996); the Law Relating to Forming of Organizations (1988); the Television and Video Law (1985); the Motion Picture Law (1996); the Computer Science Development Law (1996); the Unlawful Associations Act (1908); the Electronic Transactions Law (2004); sections 143, 145, 152, 505, 505 (b) and 295A of the Penal Code; the Code of Criminal Procedure; the Official Secrets Act (1923); and the Wireless Telegraphy Act (1933);

(d) Ensure the effective implementation of new and revised laws, including by training and building the capacity of implementing institutions, members of the legal profession, law enforcement officers and the judiciary;

(e) Ensure civilian control over the armed forces and place the military under the laws of the land;

(f) Pay greater attention to judicial reform and the capacity-building and training of judges and lawyers to address continuing concerns regarding the independence, impartiality and effectiveness of the judiciary;

(g) Support the establishment of an independent professional bar association and review the practice of revoking licences so as to enable lawyers to practise freely;

(h) Provide the appropriate statutory basis for the Myanmar National Human Rights Commission in full compliance with the Paris Principles, in addition to the necessary resources and capacity to ensure the Commission's independence and effectiveness and transparent and accountable processes to ensure the implementation of its recommendations.

96. **The parliament should initiate a process of consultation with all relevant stakeholders on the feasibility and desirability of establishing a truth commission.**

97. **Myanmar would benefit greatly from structured and long-term cooperation with OHCHR, including through a field presence in the country. The Government should further engage with and seek assistance from OHCHR in support of its reform efforts.**